

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM

APR 19 2005

CRIMINAL MINUTES

MARY L.M. MORAN
CLERK OF COURT

CASE NO. MG-05-00014-001

DATE: 04/18/2005

TIME: 2:15:33 - 2:54:43

HON. JOAQUIN V. E. MANIBUSAN, JR., MAGISTRATE JUDGE

Law Clerk: JUDITH HATTORI

Official Court Reporter: WANDA MILES

Courtroom Deputy: Leiani Tores Hernandez

Court Recorder: N/A

CSO: J. Lizama & J. McDonald

***** APPEARANCES *****

DEFT: JOHN DOE

ATTY: KIM SAVO

(✓) PRESENT (✓) CUSTODY () BOND () P.R.

(✓) PRESENT () RETAINED (✓) FPD () CJA APPOINTED

U.S. ATTORNEY: JOSEPH TOCK

AGENT:

U.S. PROBATION: CARMEN O'MALLAN

U.S. MARSHAL: G. PEREZ / F. TAITAGUE / S. LUJAN

INTERPRETER:

LANGUAGE:

PROCEEDINGS: INITIAL APPEARANCE RE COMPLAINT

(✓) FINANCIAL AFFIDAVIT REVIEWED AND ACCEPTED

FEDERAL PUBLIC DEFENDER APPOINTED TO REPRESENT THE DEFENDANT

() DEFENDANT SWORN AND EXAMINED

AGE:

SCHOOL COMPLETED:

(✓) DEFENDANT ARRAIGNED AND ADVISED OF THEIR RIGHTS, CHARGES AND PENALTIES

() COURT QUESTIONS DEFENDANT(S) REGARDING THEIR PHYSICAL AND MENTAL CONDITION

(✓) DEFENDANT WAIVES READING OF (✓) COMPLAINT () INFORMATION () INDICTMENT

PRELIMINARY EXAMINATION SET FOR:

ARRAIGNMENT SET FOR:

TRIAL SET FOR: June 14, 2005 at 9:30 a.m.

PROCEEDINGS CONTINUED TO:

(✓) DEFENDANT TO BE RELEASED ON BOND (see release conditions on page 2)

(✓) DEFENDANT REMANDED TO THE CUSTODY OF THE U.S. MARSHAL SERVICE FOR

(✓) PROCESSING () DETENTION

NOTES:

- Defendant entered a Not Guilty plea to the charges. The Court set trial for June 14, 2005 and advised counsel that a trial order will be issued.
- Ms. Savo advised the Court that her client's name is James Kirachky. Government argued that the spelling of the name and social security number on the identification are inconsistent. Government requested to file an Information once true identity is obtained. - Granted.
- Government had no objections to the defendant's release with the additional condition that he stay 500 yards away from Andersen Air Force Base and Andersen South. Defense objected to the "no alcohol" condition. The Court ordered the condition be changed from "any" to "excessive" alcohol use and for the defendant to surrender his passport by tomorrow.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community.

IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

() (6) The defendant is placed in the custody of:

(Name of person or organization) _____

(Address) _____

(City and state) _____

(Tel. No.) _____

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Custodian or Proxy

Date _____

() (7) The defendant shall:

(X) (a) report to the U.S. Probation Office for supervision,

telephone number 473-9201, not later than as directed.

() (b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property: _____

() (c) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described _____

() (d) execute a bail bond with solvent sureties in the amount of \$ _____.

(X) (e) maintain or actively seek employment.

() (f) maintain or commence an education program.

(X) (g) surrender any passport to: Clerk, District Court of Guam

(X) (h) obtain no passport.

(X) (i) abide by the following restrictions on personal association, place of abode, or travel:

Remain at a fixed residential address.

() (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to: _____

() (k) undergo medical or psychiatric treatment and/or remain in an institution as follows: _____

() (l) return to custody each (week) day as of _____ o'clock after being released each (week) day as of _____ o'clock for employment, schooling, or the following limited purpose(s): _____

() (m) maintain residence at a halfway house or community corrections center, as deemed necessary by the pretrial services office or supervising officer.

(X) (n) refrain from possessing a firearm, destructive device, or other dangerous weapons.

(X) (o) refrain from (X) any () excessive use of alcohol.

(X) (p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

() (q) submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.

() (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services office or supervising officer.

() (s) refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or electronic monitoring which is (are) required as a condition(s) of release.

() (t) participate in one of the following home confinement program components and abide by all the requirements of the program which () will or () will not include electronic monitoring or other location verification system. You shall pay all or part of the cost of the program based upon your ability to pay as determined by the pretrial services office or supervising officer.

() (i) **Curfew.** You are restricted to your residence every day () from _____ to _____, or () as directed by the pretrial services office or supervising officer; or

() (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the pretrial services office or supervising officer; or

() (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the pretrial services office or supervising officer.

() (u) report as soon as possible, to the pretrial services office or supervising officer any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.

(X) (v) Do not leave Guam without the permission of the District Court of Guam.

(X) (w) Submit to random breathalyzer at the direction of the U.S. Probation Office.

() (x) _____